

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ITV DIRECT, INC.)	Civil Action No. 04-CV-10421-JLT
)	
Plaintiff,)	Honorable Joseph L. Tauro
v.)	
)	
HEALTHY SOLUTIONS, LLC, et al.,)	
)	
Defendants.)	
)	
_____)	
)	
AND RELATED ACTIONS)	
_____)	

REQUEST FOR CLARIFICATION OF ISSUES TO BE TRIED MAY 31, 2005

NO HEARING REQUESTED

Defendants/Counterclaimants HEALTH SOLUTIONS INC., ALEJANDRO GUERRERO, MICHAEL HOWELL and GREG GEREMESZ (“Health Solutions parties”) request clarification of the issues and claims to be tried before the Court beginning May 31, 2005.

At the Pretrial Conference on April 5, 2005, the Court ordered a non-jury trial to begin on May 31, 2005 of Plaintiff-in-Intervention Cappseals’ claims against the ITV Direct parties. Cappseals has a Stipulated Judgment against Healthy Solutions LLC and no further issues remain to be tried between Cappseals and Healthy Solutions LLC.

Cappseals did not demand a jury; however, the ITV Direct parties intend to present evidence on their alleged defenses. This evidence is, in large part, the same evidence as the alleged defenses of Plaintiffs ITV Direct, Direct Marketing Concepts, et al to the claims and causes of action of Counterclaimants Health Solutions, Howell, Guerrero and Geremesz, which

are triable to a jury. The interests of the Health Solutions, Howell, Guerrero and Geremesz parties are adverse to Plaintiff-in-Intervention Cappseals. Neither the ITV Direct parties nor the Health Solutions parties have waived their jury rights properly demanded.

The settlement of all claims between the ITV Direct parties and the Health Solutions parties, which would have eliminated all jury issues was not approved, and may no longer be available.

Respectfully submitted,

O'CONNOR CHRISTENSEN &
MCLAUGHLIN LLP

/s/ Becky V. Christensen, Esq.
Becky V. Christensen, Esq.
Counsel for Healthy Solutions LLC,
Health Solutions Inc., Alejandro Guerrero,
Michael Howell, Gregory Geremesz

Dustin F. Hecker, Esq.
Posternak Blankstein & Lund LLP
Counsel for Healthy Solutions LLC,
Health Solutions Inc., Alejandro Guerrero,
Michael Howell, Gregory Geremesz

Dated: May 13, 2005

CERTIFICATE OF SERVICE

I hereby certify that on May 13, 2005, a copy of the foregoing **REQUEST FOR CLARIFICATION OF ISSUES TO BE TRIED MAY 31, 2005** was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Christopher F. Robertson, Esq.
Peter S. Brooks, Esq.
Susan W. Gelwick, Esq.
SEYFARTH SHAW LLP
Two Seaport Lane, Suite 300
Boston, MA 02210
(617) 946-4800
(617) 946-4801 Facsimile
crobertson@seyfarth.com
pbrooks@seyfarth.com
sgelwick@seyfarth.com

Attorneys for Plaintiff, Intervenor Defendant,
Counter Defendant
ITV DIRECT, INC. and DIRECT
FULFILLMENT, LLC

Daniel J. Kelly, Esq.
Scott A. Silverman, Esq.
GADSBY HANNAH LLP
225 Franklin Street
Boston, MA 02110
(617) 345-7026
(617) 204-8026 Facsimile
dkelly@ghlaw.com
ssilverman@ghlaw.com
Kcataldo@ghlaw.com

Attorneys for Plaintiff-in-Intervention
CAPPSEALS, INC.

/s/ Becky V. Christensen
Becky V. Christensen, Esq.
Counsel for Healthy Solutions LLC, Health
Solutions Inc., Alejandro Guerrero, Michael
Howell, and Gregory Geremesz